

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1058

AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-22-22-1, AS AMENDED BY P.L.2-2006, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This chapter applies only to personal property owned by a governmental body.

(b) This chapter does not apply to dispositions of property described in any of the following:

- (1) IC 5-22-21-1(b).
- (2) IC 36-1-11-5.5.
- (3) **IC 36-1-11-5.7.**

(c) This chapter does not apply to any of the following:

- (1) The disposal of property under an urban homesteading program under IC 36-7-17.
- (2) The lease of school buildings under IC 20-47.
- (3) The sale of land to a lessor in a lease-purchase contract under IC 36-1-10.
- (4) The disposal of property by a redevelopment commission established under IC 36-7.
- (5) The leasing of property by a board of aviation commissioners established under IC 8-22-2 or an airport authority established under IC 8-22-3.

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- (6) The disposal of a municipally owned utility under IC 8-1.5.
- (7) The sale or lease of property by a unit (as defined in IC 36-1-2-23) to an Indiana nonprofit corporation organized for educational, literary, scientific, religious, or charitable purposes that is exempt from federal income taxation under Section 501 of the Internal Revenue Code or the sale or reletting of that property by the nonprofit corporation.
- (8) The disposal of surplus property by a hospital established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.
- (9) The sale or lease of property acquired under IC 36-7-13 for industrial development.
- (10) The sale, lease, or disposal of property by a local hospital authority under IC 5-1-4.
- (11) The sale or other disposition of property by a county or municipality to finance housing under IC 5-20-2.
- (12) The disposition of property by a soil and water conservation district under IC 14-32.
- (13) The disposal of surplus property by the health and hospital corporation established and operated under IC 16-22-8.
- (14) The disposal of personal property by a library board under IC 36-12-3-5(c).
- (15) The sale or disposal of property by the historic preservation commission under IC 36-7-11.1.
- (16) The disposal of an interest in property by a housing authority under IC 36-7-18.
- (17) The disposal of property under IC 36-9-37-26.
- (18) The disposal of property used for park purposes under IC 36-10-7-8.
- (19) The disposal of textbooks that will no longer be used by school corporations under IC 20-26-12.
- (20) The disposal of residential structures or improvements by a municipal corporation without consideration to:
 - (A) a governmental body; or
 - (B) a nonprofit corporation that is organized to expand the supply or sustain the existing supply of good quality, affordable housing for residents of Indiana having low or moderate incomes.
- (21) The disposal of historic property without consideration to a nonprofit corporation whose charter or articles of incorporation allows the corporation to take action for the preservation of historic property. As used in this subdivision, "historic property"

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means property that is:

- (A) listed on the National Register of Historic Places; or
 - (B) eligible for listing on the National Register of Historic Places, as determined by the division of historic preservation and archeology of the department of natural resources.
- (22) The disposal of real property without consideration to:
- (A) a governmental body; or
 - (B) a nonprofit corporation that exists for the primary purpose of enhancing the environment;
- when the property is to be used for compliance with a permit or an order issued by a federal or state regulatory agency to mitigate an adverse environmental impact.

- (23) The disposal of property to a person under an agreement between the person and a governmental body under IC 5-23.

SECTION 2. IC 36-1-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A disposing agent who wants to sell or transfer real property must comply with this section, except as permitted by section 4.1, 4.2, 5, 5.5, **5.7**, 8, 14, or 15 of this chapter.

- (b) The disposing agent shall first have the property appraised by two (2) appraisers. The appraisers must be:
- (1) professionally engaged in making appraisals;
 - (2) licensed under IC 25-34.1; or
 - (3) employees of the political subdivision familiar with the value of the property.

The appraisers shall make a joint appraisal of the property.

- (c) After the property is appraised, the disposing agent shall publish a notice in accordance with IC 5-3-1 setting forth the terms and conditions of the sale and, when subsection (e) is employed, may engage an auctioneer licensed under IC 25-6.1 to advertise the sale and to conduct a public auction. The advertising conducted by the auctioneer is in addition to any other notice required by law and shall include a detailed description of the property to be sold stating the key numbers, if any, of the tracts within that property. If the disposing agent determines that the best sale of the property can be made by letting the bidders determine certain conditions of the sale (such as required zoning or soil or drainage conditions) as a prerequisite to purchasing the property, the disposing agent may permit the bidders to specify those conditions. The notice must state the following:

- (1) Bids will be received beginning on a specific date.
- (2) The sale will continue from day to day for a period determined by the disposing agent of not more than sixty (60) days.

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(3) The property may not be sold to a person who is ineligible under section 16 of this chapter.

(4) A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

(A) beneficiary of the trust; and

(B) settlor empowered to revoke or modify the trust.

(d) A bid must be open to public inspection. A bidder may raise the bidder's bid, and subject to subsection (e), that raise takes effect after the board has given written notice of that raise to the other bidders.

(e) The disposing agent may also engage an auctioneer licensed under IC 25-6.1 to conduct a sale by public auction. The auction may be conducted either at the time for beginning the sale in accordance with the public notice or after the beginning of the sale. The disposing agent shall give each bidder who has submitted a bid written notice of the time and place of the auction.

(f) The disposing agent may, before expiration of the time set out in the notice, sell the property to the highest and best bidder. The highest and best bidder must have complied with any requirement under subsection (c)(4). However, the disposing agent may sell the property for less than ninety percent (90%) of the appraised value of the tracts only after having an additional notice of the sale published in accordance with subsection (c). The disposing agent may reject all bids.

(g) If the disposing agent determines that, in the exercise of good business judgment, the disposing agent should hire a broker or auctioneer to sell the property, the disposing agent may do so and pay the broker or auctioneer a reasonable compensation out of the gross proceeds of the sale. However, the disposing agent must still comply with the procedural requirements of this section. The disposing agent may hire one (1) of the appraisers as the broker or auctioneer.

SECTION 3. IC 36-1-11-5.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.7. (a) As used in this section, "political subdivision":

(1) before July 1, 2008, does not include a township in a county having a consolidated city; and

(2) after June 30, 2008, refers to all political subdivisions.

(b) As used in this section, "volunteer fire department" has the meaning set forth in IC 36-8-12-2.

(c) Notwithstanding IC 5-22-22 and sections 4, 4.1, 4.2, and 5 of this chapter, a disposing agent of a political subdivision may sell or transfer:

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(1) real property; or

(2) tangible or intangible personal property, licenses, or any interest in the tangible or intangible personal property or licenses;

without consideration or for a nominal consideration to a volunteer fire department for construction of a fire station or other purposes related to firefighting.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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